

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK**

M.F., a minor, by and through his parent and natural guardian YELENA FERRER; M.R., a minor, by and through her parent and natural guardian JOCELYNE ROJAS; I.F., a minor, by and through her parent and natural guardian JENNIFER FOX, on behalf of themselves and a class of those similarly situated; and THE AMERICAN DIABETES ASSOCIATION, a nonprofit organization,

Plaintiffs,

-against-

THE NEW YORK CITY DEPARTMENT OF EDUCATION; THE NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE; THE OFFICE OF SCHOOL HEALTH; THE CITY OF NEW YORK; ERIC ADAMS, in his official capacity as Mayor of New York City; DAVID C. BANKS, in his official capacity as Chancellor of the New York City Department of Education; ASHWIN VASAN, in his official capacity as Commissioner of the New York City Department of Health and Mental Hygiene; and ROGER PLATT, in his official capacity as Chief Executive Officer of the Office of School Health,

Defendants.

No. 18-CV-6109 (NG) (SJB)

**DECLARATION OF
TORIE ATKINSON
ATTESTING TO
DISSEMINATION OF
CLASS NOTICE AND IN
SUPPORT OF
PLAINTIFFS' MOTION
FOR FINAL APPROVAL
OF SETTLEMENT**

I, Torie Atkinson, hereby declare:

1. I am an attorney duly licensed to practice law in the State of New York and admitted to the United States District Court for the Eastern District of New York.
2. I am a Senior Staff Attorney at Disability Rights Advocates ("DRA"). DRA is Class Counsel in the above-captioned case. This declaration is based upon my personal knowledge. If called to testify, I could testify competently to the facts described in this declaration.

3. I am familiar with the facts of this case and submit this declaration in compliance with the Court's November 22, 2022 Order granting Preliminary Approval of the Settlement and in support of Plaintiffs' future Motion for Final Approval of Settlement.

COMPLIANCE WITH CLASS NOTICE DISTRIBUTION PLAN

4. Pursuant to Paragraph 1 of the Court's November 22, 2022 Order granting Preliminary Approval, I worked with DRA's Development & Communications Manager Chris Maccarone to ensure that the long- and short-form Notices of Settlement ("the Notice") were distributed to the public. I also worked with Crystal Woodward, the Director of the American Diabetes Association's Safe at School program, to ensure the dissemination of the Notice on behalf of the American Diabetes Association.

5. DRA set up a dedicated e-mail address (diabeteslawsuit@dralegal.org) and voice mailbox (332-217-2362) in September 2022, which, following this matter's Preliminary Approval Order, either I or paralegal Andrew Trainor (and sometimes both) checked every day to respond to calls and emails.

6. The settlement was announced on DRA's social media (Twitter, Facebook, LinkedIn, Instagram) on November 28, 2022 and again on December 8, 2022.

7. On November 28, I emailed the Disability Rights Bar Association listserv regarding preliminary approval of the settlement.

8. On November 29, 2022, the Notices were posted on DRA's website, along with the Settlement Agreement, this Court's Preliminary Approval Order, and information about the Fairness Hearing here: <https://dralegal.org/class-notice/nyc-school-diabetes-settlement-fairness-hearing/>. The Notices were (and remain) specifically highlighted on DRA's front page. These documents remain posted on our website for public view.

9. On January 9, 2023, DRA posted about the Class Notice on its social media.

10. On January 9, 2023, I emailed the Notice to relevant contacts at the Education Law Task Force, INCLUDE NYC, and Advocates for Children, who are members of the advocacy community that work on issues related to educational access for children with disabilities.

11. DRA began receiving emails and calls from possible class members starting in December 2022. I personally called back each and every caller, and wrote back to each and every e-mail correspondence.

12. DRA continues to receive communications from possible class members by email and phone, even after the close of the Notice Period. I continue to personally reach out to each and every caller or emailer.

13. None of the contacts I have had with class members have indicated objections to the proposed Settlement Agreement. In nearly all of the calls or emails, the parents or guardians of class members or potential class members had questions about understanding the Notices and the action. While many expressed dissatisfaction with current care for students with diabetes, none of the families expressed objection to proposed reforms of the Settlement Agreement.

14. One parent I spoke with verbally raised objections that the Settlement does not provide relief related to the grade forgiveness/expungement following diabetes diagnosis and hospitalization. No other parent has raised this issue and we assume it is specific to that student. This parent did not ultimately submit written objections to the Settlement but I share it with the Court should the Court have any concerns about that aspect of relief.

15. Several callers were parents of students not covered by the Settlement Agreement, such as students attending private school, charter school, or enrolled in pre-K programs.

16. Regardless of whether the caller was a Class member or not, I provided all of these families with referrals to organizations that provide individual representation. For those who are Class members, I also provided, where appropriate, specific reference to relevant terms/provisions of the Settlement Agreement, including (in all cases) the newly established escalation provisions for DOE and the Office of School Health.

17. To date, Class Counsel has received no written objections to the Settlement, only the two Notices to Speak at the Fairness Hearing, which paralegal Andrew Trainor promptly filed on this matter's docket on my behalf.

18. Mr. Trainor sent copies of the filed requests to speak at the Fairness Hearing to both individuals on February 28, 2023.

19. On March 3, 2023, I emailed the February 28, 2023 Order directing Class Counsel to communicate with these individuals to both Ms. Roberts and Ms. Hill, requesting availability to discuss by phone.

20. On March 6, 2023, pursuant to the Court's March 3, 2023 Order, I spoke to Ms. Roberts by phone.

21. On March 8, 2023, pursuant to the Court's March 3, 2023 Order, I spoke to Ms. Hill by phone.

22. Class Counsel has complied with all aspects of the Court's November 22, 2022 or February 28, 2023 Orders.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 8, 2023 in New York, NY.



Torie Atkinson